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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER HOMAYOUNMEHR, FARID				
ART UNIT		PAPER NUMBER		
2139				
NOTIFICATION DATE		DELIVERY MODE		
03/20/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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## Office Action Summary

**Application No.**

10/627,733

**Applicant(s)**

IWASAKI, JUN

**Examiner**

Farid Homayounmehr

**Art Unit**

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-7,9-13,15,16 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-13,15,16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to communications: application, filed 7/28/2003; amendment filed 12/26/2007.
2. Claims 1, 3-7, 9-13, 15, 16, 18-20 are pending in the case. Claim 21 is new. Claims 2, 8, 14, and 17 were cancelled.

### ***Response to Arguments***

3. With respect to claim 16, applicant argues that the cited prior art does not describe or suggest the limitation that metadata includes a log providing information on locations visited by the user. Applicant cites the rejection associated with said limitation, briefly describes some features of the cited prior art, and argues to traverse the rejection as follows: "Initially Applicants respectfully submit that Timmer does not describe or suggest that metadata, including the location that the user is visiting and information regarding the visited location, is transmitted to the mobile communications device of the user at the visited location. Instead, Timmer simply describes that a user can create a travel scrapbook. There is no description or suggestion of data being transmitted to the user indicating the location that the user is visiting." However, as indicated in the rejection, Timmer paragraph 31 clearly shows that the travel scrapbook stores the locations visited by the user. Examples from paragraph 31 include: "A user selects contents from host and/or imports contents from

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*other sites, and saves it in travel planning scrapbook that already includes destination searching and trip planning ability, email and photography storage and transmittal ability, the ability to make and confirm reservations (and evaluate those reservations as the trip progresses!), reviews of restaurants available for each destination the author has selected and sites of interest.”* It also shows that the user can get updates about the weather each day, which is clearly associated with the location of the user on that day. Paragraph 31 also states that the user may want to share the scrapbooks with travelers who are taking similar trips. The location is a very essential part of the trip. Therefore, Timmer shows transmittal of data, and the data that includes the location of the user. Note further that sharing the scrapbook, or checking the weather requires transmission of locations traveled during the trip.

Applicant further argues that Shurts does not teach transmittal of data, however, the transmittal of data is shown by Timmer as described above.

Applicant argues that claims 1, 7, 13, and 19-21 recite similar features as claim 16. However, as discussed above, applicant's argument relative to claim 16 is found non persuasive.

### ***Election/Restrictions***

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4. Newly submitted claim 21 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

5. The amended claims are directed to the following patentably distinct species:

Species 1: Figures 3 and 7 associate with claims 1, 3-7, 9-13, 15, 16, 18-20.

Species 2: No figure was found in association with the new claim. Applicant has not identified any specific figure or portion of Specification in support of the new claim.

6. The species are independent or distinct because each of the various disclosed species details a mutual exclusive characteristic of:

Species 1: The locations visited by a user is logged and transmitted by the mobile device. The stationary device has no role in identifying the locations visited by the user (see amended claim 1).

Species 2: The location of a user is identified by reference to the location of the stationary device which is within the range of the mobile device. The location is updated as the mobile device moves from one location covered by a stationary device (first location) to a different location covered by a different stationary device (see claim 21).

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The species reflected in claim 1 is clearly distinct and independent from the species in claim 21. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 21 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3-7, 9-13, 15, 16, 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Timmer (U.S. Patent Application Publication No. 2002/0107895, filed Aug. 3, 2001), and further in view of Shurts (U.S. Patent No. 5,572,673, dated Nov. 5, 1996).

8.1. As per claim 1, Timmer is directed to a mobile information communication device, which supports information exchange and fostering of human relations between a

plurality of users, (The "Host" as described in parag. 4 of Timmer, and parag. 18-21, where a PDA (mobile device) stores a user personality book), comprising: a wireless communication unit which transmits and receives wireless communication data (Timmer parag. 31 suggests use of wireless application to exchange data in one of the example embodiments. Also see parag. 27, suggesting the device storing the book to be a cellular device); a metadata storage unit which stores, in the mobile unit, metadata relating to activities and interests of a user of the communication device (parag. 4-6 indicating that the data is stored in the Host. Parag. 28-33 shows examples of data related to user interests and activities); and a central control unit which manages the storage of metadata in said metadata storage unit (Timmer parag. 19 teaches database systems to be used to manage the data to be stored in the Host), wherein said central control unit partitions said metadata storage unit by security level and category, stores metadata received through said radio communication unit in a corresponding partition of the metadata storage unit based on matching the received metadata with a security level and/or category predetermined by the user (enforcing security based on assigned levels and categories to data in a database management system was well known and widely practiced at the time of invention. However, Timmer does not explicitly talk about details of enforcing security. Shurts explains the enforcement of MAC rules using labels in col. 1, line 52 to col. 2 line 5. Shurts specifically defines security levels and categories in col. 4, line 55 to col. 5, line 51, and particularly in col. 5 lines 7-20. MAC rules are typically implemented in Operating Systems and allow secure storage and access of data based on the labels assigned to data. Therefore, in Shurts system, each data

object receives a label (level and/or category), which is used to determine if access to data object is allowed or not. Therefore, each data object is stored based on the assigned security label, and in a portion of metadata storage that corresponds to the assigned label. Details related to combination of the arts taught by Timmer and Shurts is described below), supplies, in response to an external access request, metadata from the metadata storage unit that matches a security level available to the external access request (As mentioned above, Shurts suggests deployment of MAC rules to enforce security, which supplies data to a requestor only if the level and/or category of the requestor matches that of the requested data), and wherein said metadata is information in the form of metadata, equivalent to a log providing information on locations visited by the user (Shurts is directed to a secured database system and the purpose of databases is storing linked pieces of information such as the user, its visits and the visited place. A system capable of storing data related to a user is well capable of storing the information of locations visited by the user. In other words, barring any unexpected result, a person skilled in art would have store[d] the data indicating location visited by a user if an application requires such data. In addition, Timmer paragraph 31 clearly shows storing locations visited by the user).

It would have been obvious to a person skilled in art, at the time the invention was made, to combine Timmer's system with Shurt's system. This is because Timmer uses databases in the system development as mentioned in paragraphs 19 and 25, therefore its system incorporates the art that is analogous to Shurts' art, which builds a



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database management system to secure data objects (abstract). Furthermore, Timmer stores personal data, which requires privacy protection. As mentioned in paragraph 2, Timmer uses a secured server and makes its data available over the Internet and via wireless systems. Therefore the skilled artisan that makes Timmer's system would be motivated to use Shurts' secured database system.

Therefore, it would have been obvious to a person skilled in the art to use Shurts' secured database management system in development of Timmer's system.

8.2. Claims 2, 8, 14 and 17 cancelled by the applicant.

8.3. As per claim 3, the combination of Shurts and Timmer is directed to the information communication device according to claim 1, further comprising: a user input unit for the user of the device to write metadata directly into said metadata storage unit (Shurts col. 14 lines 5-15 describes a key which allows user enter user data).

8.4. As per claim 4, the combination of Shurts and Timmer is directed to the information communication device according to claim 1, wherein said central control unit sets a higher security level for data transmitted through a relatively secure communication path and a lower security level for other transmitted data (as explained in col. 1 line 53 to col. 2 line 5, the more sensitive data gets a higher level or category).

The more sensitive data is typically transmitted in the more secured transmission system).

8.5. As per claims 5 and 11, Timmer and Shurts are directed to the information communication device according to claim 1. Timmer teaches a virtual person growing means which grows a virtual person corresponding to the user based on the user's history information accumulated in said metadata storage unit. This is because Timmer is directed to an interactive personalized book, which provides users with the ability to record and guide their own physical or emotional transformations over time, or collect and archive content that reflects a specific period of time of their lives. An on-line personal history diary, and evolution of personality and life style is possible parag. 9. Also as shown in parag 29-30, Timmer's system supports, for example, a "MYLIFEBOOK" which reflects a personalization process corresponding to a person. As mention in parag 29, the personalization tool is interactive and matures as it collects more history data about the person.

8.6. As per claim 6, the combination of Shurts and Timmer is directed to the information communication device according to claim 1, further comprising: a format setting unit which converts the format of metadata taken out of said metadata storage unit as requested by a requesting party (according to Shurts col. 5 lines 40 to 55, the database maybe queried using different languages, and therefore it is formed in the format requested by a requesting party).

9. Claims 7, 9-13, 15, 16, 18-20 are substantially the same as claims 1-6 above, Note that Timmer supports exchanging emails and Shurts creates a bidirectional communication (col. 14 line 16-30), and therefore both are capable of receiving and transmitting data. Also note that Timmer paragraph 6-12 teaches that the Host can be updated and also that the information can be accessible on line and from any location where the appropriate hardware is available. Also, Examiner takes the official notice that authenticating parties before the parties can communicate was well known and widely practiced at the time of invention. Therefore, it would have been obvious to authenticate parties of communication before they can exchange data.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL**, as no new ground of rejection is included. See MPEP § 7.39. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Farid Homayounmehr whose telephone number is (571) 272-3739. The examiner can be normally reached on 9 hrs Mon-Fri, off Monday biweekly.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (571) 272-4063. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

***Farid Homayounmehr***

***3/7/2008***

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/Kristine Kincaid/

Supervisory Patent Examiner, Art Unit 2139